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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,215	04/08/2004	Hongyuan Wang	9896-000036/CO	9409
27572 7590 10/07/2008 HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303				
EXAMINER YENKE, BRIAN P				
ART UNIT 2622		PAPER NUMBER		
MAIL DATE 10/07/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/821,215

Applicant(s)

WANG ET AL.

Examiner

BRIAN P. YENKE

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on After Final Response (09/19/08).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Individual Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see After Final Response, filed 09/19/08, with respect to the claims (i.e. Mortensen) have been fully considered and are persuasive, thus the finality of the previous action has been withdrawn. However, based upon the argued feature, the examiner has incorporated an additional reference (US 6,903,779, Dyer) into the rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mortensen et al., US 5,563,804 in view of Dyer, US 6,903, 779 and Plog, US 6,414,724.

In considering claim 1, 4 and 7,

Mortensen discloses a system for providing closed captioning to an electronic discussion group. As shown in Figs 1, 2 and 3, uses of a discussion group may receive video data via a tuner 1 through a network 6, in addition to receiving closed caption data from the video signal, and wherein the conferees may also receive captions generated from the user's discussion Figs 1a, 2a and 3a.

Regarding the mingling of the caption image on a digital service image, it is noted that Mortensen discloses the transmission of the caption data separately (Fig 1), the video data separately (Fig 2) or the transmission of both the caption data and video data simultaneously (Fig 3) although done separately (i.e.

not mingled). Although the concept of transmitting video and caption data together is notoriously well known in the art, since caption data is linked/synchronized with the video data. The examiner will nonetheless evidence this concept of providing/encoding the video data with caption data for transmittal (See Figs 2-4 of Dyer).

Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Mortensen which discloses the simultaneous transmission of video and caption data separately, to transmit them together (i.e. mingled image), as done by Dyer which would provide the conventional benefit of receiving both signals via a single stream/network.

However, the combination of Mortensen/Dyer does not explicitly recite the concept of a transparent background. Although it is noted that in the realm of captioning data, the background is typically made transparent so that user's may view the main program without distortion (i.e. the captioning blocks out the video).

The examiner evidences such conventional practice by incorporating Plog which discloses teletext (caption data) using a transparent background.

Thus it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to modify Mortensen/Dyer which discloses the transmitting/reception/display of video and captioned data (to include discussion between users) to off the user the ability to view the video without obstruction by making the background of the caption data transparent.

In considering claims 2-3,

As discussed above with respect to claim 1, the combination of Mortensen/Dyer/Plog discloses the transparency (color). Regarding the conventional recitations of the codes, position and size, the examiner takes "OFFICIAL NOTICE" since this information is necessary by the display in order to decode/display such captioning data.

In considering claims 5 and 8,

The combination above does not explicitly recite "dot matrix" however this is a conventional format of captioned data, thus the examiner takes "OFFICIAL NOTICE" regarding such. See attached PTO-892 US20030215219.

In considering claims 6, 9-10,

The combination above does not explicitly recite the positions/locations of the CODEC of the caption overlay and caption generating module, however the practice of encoding/decoding in a first path (transmission) and 2nd path (reception) both being in the service channel is conventional in the art and thus the examiner takes "OFFICIAL NOTICE" regarding such. See cited references, US 5,508,754 and US 5,343,239.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (571)272-7359. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, David L. Ometz, can be reached at (571)272-7593.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571)-273-8300

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

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(TDD) 703-305-7785

An automated message system is available 7 days a week, 24 hours a day providing informational responses to frequently asked questions and the ability to order certain documents. Customer service representatives are available to answer questions, send materials or connect customers with other offices of the USPTO from 8:30 a.m. - 8:00p.m. EST/EDT, Monday-Friday excluding federal holidays.

For other technical patent information needs, the Patent Assistance Center can be reached through customer service representatives at the above numbers, Monday through Friday (except federal holidays) from 8:30 a.m. to 5:00 p.m. EST/EDT.

The Patent Electronic Business Center (EBC) allows USPTO customers to retrieve data, check the status of pending actions, and submit information and applications. The tools currently available in the Patent EBC are Patent Application Information Retrieval (PAIR) and the Electronic Filing System (EFS). PAIR (<http://pair.uspto.gov>) provides customers direct secure access to their own patent application status information, as well as to general patent information publicly available. EFS allows customers to electronically file patent application documents securely via the Internet. EFS is a system for submitting new utility patent applications and pre-grant publication submissions in electronic publication-ready form. EFS includes software to help customers prepare submissions in extensible Markup Language (XML) format and to assemble the various parts of the application as an electronic submission package. EFS also allows the submission of Computer Readable Format (CRF) sequence listings for pending biotechnology patent applications, which were filed in paper form.

/BRIAN P. YENKE/
Primary Examiner, Art Unit 2622

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B.P.Y

01 October 2008